IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.20876 of 2007
BHARAT MANDAL, son of Khubi Mandal, resident of Mohalla Katharbani, ward no. 7 under Rosera Town, P. S. Rosera, District-Samastipur.

…….Petitioner

Versus

1. STATE OF BIHAR
2. Birendra Mahto son of Parmeshwar Mahto, resident of Mohalla Katharbani, ward no. 7 under Rosera Town, P. S. Rosera, District Samastipur.

…..Opposite parties

---

5. 18.5.2009. Heard learned counsel for the petitioner and learned counsel for opposite party.

The present application is directed against the order passed by the Executive Magistrate, Rosera in 144 Cr.P.C. proceeding as well as the order passed by Additional Sessions Judge, FTC No. 11, Samastipur in Criminal Revision No. 269/1 of 03/06 on several grounds urged in the application.

WEB COPY NOT OFFICIAL

After having perused the various documents which have been brought on record by the parties and perusing the impugned orders in question, this court also comes to a considered opinion that the dispute between the parties cannot be resolved in a summary proceeding like section 144 of the Cr.P.C.. It is a protracted litigation which has been going on between the parties and various kinds of orders have come to be passed from time to time to settle the dispute. The petitioner is given liberty to move before a civil court of a competent jurisdiction for an appropriate declaration in his favour.

This court further records that the impugned orders

under challenge in this application shall not be a reflection on the merit of the claim which may be made by the petitioner or be set up as a defence by the defendant. The matter shall be resolved based on other evidence and material including oral or documentary which may be brought on record before the civil court of competent jurisdiction.

This application stands disposed of with the above liberty and direction.

kanchan **(Ajay Kumar Tripathi, J.)**

WEB COPY NOT OFFICIAL